

FINANCE DEPARTMENT (LOTTERIES)

The 19th February, 1971]

No. DOL/HR/71/1031.—The Governor of Haryana is pleased to appoint the following persons as judges for the supervision of the 25th Draw of Haryana State Lotteries to be held on 20th February, 1971:—

- (i) Shri S. N. Mehra, Sub-Agent, State Bank of India, Sector 17, Chandigarh.
- (ii) Shri L. R. Dawar, I. A. S. (Retd.), 79, Sector 5, Chandigarh.
- (iii) Smt. B. L. Ahuja, Kothi No. 42, Sector 4, Chandigarh.
- (iv) Sardar Bahadur Balwant Singh, Retired Superintending Engineer, Sector 15, Chandigarh.
- (v) Shri V. P. Dhawan, Deputy Director, Food & Supplies Department, Haryana, Chandigarh.
- (vi) Shri M. L. Gupta, Public Relations Officer, Haryana, Chandigarh.

The 24th February, 1971

No. DOL/HR/71/1148.—The Governor of Haryana is pleased to appoint the following persons as judges for the supervision of the Mid-Weekly Draw of Haryana State Lotteries held on 25th February, 1971:—

- (i) Shri S. N. Mehra,
Sub-Agent, State Bank of India,
Chandigarh.
- (ii) Shri V. P. Dhawan,
Deputy Director,
Food and Supplies Department,
Haryana, Chandigarh.

J. R. DHINGRA,

Director of Lotteries-cum-Dy. Secy.

LABOUR DEPARTMENT

The 17th February, 1971

No. 1Lab-71/4862.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s (1) The Karnal Co-operative Transport Society Ltd., Karnal, (2) Karnal-Delhi Co-operative Transport Society Ltd., Karnal, (3) New Karnal Co-operative Transport Society Ltd., Karnal.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 101 of 1970

between

THE WORKMEN AND THE MANAGEMENT OF M/S. (1) THE KARNAL CO-OPERATIVE TRANSPORT SOCIETY, LTD., KARNAL. (2) KARNAL DELHI CO-OPERATIVE TRANSPORT SOCIETY LTD., KARNAL. (3) NEW KARNAL CO-OPERATIVE TRANSPORT SOCIETY LTD., KARNAL.

Present :

Shri Madhu Sudan Sarn Cowshish, for the workmen.

Shri M. L. Saini, for the management.

AWARD

The workmen of the three respondent Co-operative Transport Societies claimed that they may be granted dearness allowance as has been given to the Punjab Roadways on or after 1st May, 1967. This

demand of the workmen was based upon an agreement dated 17th April, 1957 between the parties, which was operative for a period of 10 years from 1st April, 1957 to 31st March, 1967. Under para No. 1 of this agreement it was agreed between the parties that "the terms and conditions of service applicable at present to all categories of employees of Punjab Roadways and as may be modified from time to time from the Government would be applicable to the employees of the respondent societies." After the expiry of the period of the agreement the management of the three respondent societies served a notice on their employees intimating to them of their intention to terminate the settlement as provided under section 19 (b) of the Industrial Disputes Act, 1947. The management of the Punjab Roadways granted additional dearness allowance to their employees with effect from 1st May, 1967. The workmen claimed that they were entitled to this dearness allowance. The management resisted the claim on the ground that no notice of termination was necessary and this agreement automatically came to an end on the expiry of the period of 10 years on 31st March, 1967. In order to resolve this dispute the President of India referred the following dispute to this Tribunal for adjudication, —vide Government Gazette Notification No. ID/3919, dated 15th February, 1968.

"Whether the workmen should be granted dearness allowance as has been given to the Punjab Roadways employees on or after 1st May, 1967?"

This reference was registered as reference No. 21 of 1968 and an award dated 12th September, 1969 was submitted to the Government. It was held in the award that there is no automatic termination of the settlement and that the settlement came to an end only after the expiry of the period of two months as stated in the notice of termination given by the management. A dispute regarding the interpretation of this award has arisen because the Notification by which the additional dearness allowance was allowed to the employees of the Punjab Roadways with effect from 1st May, 1967 is dated 15th December, 1967. The interpretation which the management wish to put on the award of this Tribunal is that the management are bound to honour the notifications issued by the Punjab Government with regard to dearness allowance only up to the expiry of the period of two months from the date of their notice and since the notification in question was issued by the Government in the month of December, the respondent societies are not bound to grant dearness allowance in accordance with the terms of this notification. The contention of the workmen however is that by virtue of the notification issued in December, 1967, the employees of the Punjab Roadways got the additional dearness allowance with effect from 1st May, 1967 and since under the terms of this award the agreement dated 17th April, 1957 between the parties was admittedly in force in the month of May, 1967, therefore the employees of the respondent societies are entitled to the additional dearness allowance as allowed in the notification. Since there was a dispute between the parties with regard to the interpretation which is to be put on the award of this Tribunal, the Governor of Haryana, in exercise of the powers conferred on him under section 36A of the Industrial Disputes Act, 1947, referred the following matter to this Tribunal for clarification, —vide Government Gazette Notification No. 3104-4Lab-70/15031, dated 3rd June, 1970:—

"Whether the workmen are entitled to dearness allowance according to the Punjab Government circular letter No. 6602-3FR-67/26732, dated 15th December, 1967 in accordance with the award of the Industrial Tribunal, dated 12th September, 1969, or not?"

On receipt of the reference usual notices were issued to parties. Neither party desired to produce any evidence and I have heard their learned representatives. The submission of the learned representative of the management is that under the award of this Tribunal the workmen of the three respondent societies are simply entitled to dearness allowance which was being given to the employees of the Punjab Roadways as on 30th June, 1967 and they have not made out a case for an increase in the dearness allowance after 30th June, 1967. According to the learned representative this would mean that if any increase in the dearness allowance has been given after the month of June although with retrospective effect, it will not be applicable to the workmen of the respondent societies because under the award the workmen have to get dearness allowance which was being received by the employees as on 30 June, 1970. It is submitted that by virtue of the notification issued by the Punjab Government on 15th December, 1967 the employees of the Punjab Roadways must have got the additional dearness allowance some time after the said date and it cannot therefore be said that they were getting this increased dearness allowance in the month of May, 1967 and the claim of the workmen for the increase in the dearness allowance on the scale at which it was granted to the employees of the Punjab Roadways is not covered by the award of the Tribunal.

I have carefully considered the submissions of the learned representative of the management and in my opinion the claim of the workmen is covered by the award of this Tribunal. It is true that the notification of the Punjab Government by which additional dearness allowance was allowed was issued on 15th December, 1969 that is long after the settlement dated 17th April, 1957 arrived at between the parties had come to an end but it is not possible to lose sight of the fact that the notification dated 15th December, 1967 has a retrospective effect and the employees of the Punjab Roadways got the benefit of the additional dearness allowance with effect from 1st May, 1967 when according to the award of this Tribunal the settlement between the parties was still in force. By virtue of the award of this Tribunal the workmen of the three respondent societies are entitled to the dearness allowance which was being given to the employees of the Punjab Roadways as on 30th June, 1967 and in my opinion the effect of the notification dated 15th December, 1967 is that the employees of the Punjab Roadways must be deemed to be getting increased dearness allowance with effect from 1st May, 1967 and the case of the workmen of the respondent societies is directly covered by this notification and not other interpretation is possible.

If what the learned representative of the management now submits is accepted to be correct then there was not point in the respondent contesting the previous reference because the settlement between the parties was admitted by in force up to 31st March, 1967 and after 31st March, 1967 the only notification by which the dearness allowance of the employees was increased is the notification dated 15th December, 1967 by which the dearness allowance has been increased with effect from 1st May, 1967. If according to the management this notification was not applicable to them because it had been issued in December, 1967 then there was no point in their taking up the stand that the settlement dated 17th April, 1957 automatically came to end by reason of the lapse of time and no notice to terminate the settlement was necessary because even if this proposition of law is not accepted the management of all the three respondent societies had admittedly given the required notice terminating this settlement and by reason of these notices the settlement in question stood terminated long before the notification dated 15th December, 1967 was issued. But we find that the management of all the respondent societies strenuously maintained in this Tribunal that no notice to terminate the settlement was at all necessary and the settlement came to an automatic end on 31st March, 1967 that is before 1st May, 1967 the date from which the increased dearness allowance was allowed to the employees of the Punjab Roadways. The respondent societies not only contested this point very strenuously before this Tribunal but when their contention was not accepted by this Tribunal, the respondent societies filed a writ in the Punjab and Haryana High Court and it will not be out of place to reproduce the observations of Hon'ble Mr. Justice B. R. Tuli, made in his judgment dated 23rd January, 1970 while disposing of the said Writ Petition.

"The only other point that arises for decision in this petition is whether the settlement dated 17th April, 1957, remained binding between the parties in May, 1967, when an increase in the amount of dearness allowance was made by the Punjab Roadways."

After discussing a number of authorities of various High Courts and giving cogent reasons His Lordship was pleased to hold that the settlement in question remained binding on the parties until the expiry of two months from the date on which the notices terminating the settlement were given. While discussing the facts of the present case the Hon'ble Judge was pleased to observe as under :—

"In the instant cases the notices to terminate the settlement dated April 17, 1957 were given by petitioner No. 1 on April 18, 1967, and by petitioner No. 2 on June 13, 1967, from which it is clear that the settlement arrived at on April 17, 1957, was binding and operative between the parties in May, 1967 when the Punjab Roadways granted an increase in dearness allowance to their workmen and the workmen of the petitioners were entitled to that increase on the basis of that settlement. The learned Tribunal has stated in the award that the workmen of the petitioner societies were entitled to the dearness allowance which was being given to the employees of the Punjab Roadways on June 30, 1967, which is not, therefore, in any way incorrect as no further increase in the dearness allowance was made by the Punjab Roadways between May 1, 1967, and June 30, 1967. The award of the Tribunal is, therefore, in accordance with the settlement between the parties dated April 17, 1957, and no error of law on the face of the award has been shown to exist."

In view of the observations of the High Court reproduced above I fail to see what further clarification is required. It has been specifically held by the High Court "that the settlement arrived at on April 17, 1957 was binding and operative between the parties in May, 1967 when the Punjab Roadways granted an increase in the dearness allowance to their workmen and the workmen of the petitioners were entitled to that increase on the basis of that settlement" Accordingly I hold that the workmen are entitled to the dearness allowance according to the Punjab Government circular letter No. 6602-3FR-67/26732, dated 15th December, 1967.

No order as to costs.

The 28th October, 1970.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 1455, dated the 2nd November, 1970

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 28th October, 1970.

P. N. THUKRAL,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

B. L. AHUJA,
Commissioner for Labour and Employment and Secy.